97

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No.1675 OF 2005.

PETITIONER Mohan Lal Jain
S/o. Late Shri Premraj Shrishrimal
Aged about 78 years, Prop. M/s. Saheli Jewellers, Gandhi Chowk, Durg (C.G.)

Vs.

RESPONDENTS

1. Assistant Commissioner of Income Tax - 2, Bhilai (C.G.)
2. Commissioner of Income Tax, New Central Revenue Building, Civil Lines, Raipur (C.G.)
3. Union of India
Through Secretary, Ministry of Finance, North Block, New Delhi.

Writ Petition No.1676 OF 2005.

PETITIONER Sunil Kumar Jain
S/o. Mohan Lal Jain
Aged about 44 years,
Prop. M/s. Saheli Jewellers, 26 Civic Centre, Bhilai (C.G.)

Vs.

RESPONDENTS

1. Assistant Commissioner of Income Tax - 2, Bhilai (C.G.)
2. Commissioner of Income Tax, New Central Revenue Building, Civil Lines, Raipur (C.G.)
3. Union of India
Through Secretary, Ministry of Finance, North Block, New Delhi.

Present : Shri Shashank Dubey, learned Sr. Advocate with Shri Neelabh Dubey, learned counsel for the petitioner.
Shri Amit Choudhary, learned Standing Counsel for Income Tax Department.

ORAL ORDER
(Passed on 26th June 2006)

98

These writ petitions were presented in this Court on 20th April 2005 calling in question the legality of the notice (Annexute-P/8) dated 30th March 2005 issued under Section 148 Income Tax Act 1961, (for short 'the Act') proposing to reopen the assessment. It appears that since this Court had not stayed further proceedings in pursuance of the impugned notice (Annexure-P/8), the Assessing Officer reopened the case and passed assessment orders. At the time of hearing, Shri Amit Choudhary, learned Standing Counsel appearing for the Income Tax Department would submit that the assessment so made by the Assessing Officer was subsequently annulled on 29.05.2006 by the Commissioner of Income Tax (Appeals). In view of this development, in my considered opinion, there is no need to adjudicate upon the legality of the impugned notice dated 30.03.2005. Nevertheless, learned counsel for the petitioner would submit that Annexure-P/8 was *ex facie* illegal and, therefore, it should be condemned as illegal. A Court undertakes adjudication of a lis for resolution only in order to grant a relief to an aggrieved party and would, nay, should not undertake adjudication of any issue or point as an academic matter. That is the well settled position in law. As on today, in view of the development noted supra, it cannot be said that the petitioner is an aggrieved party, because, the reassessment made by the assessing officer which was against the petitioners' interest was annulled by the Commissioner of Income Tax (Appeals) himself vide order dated 26.03.2002. Looking from any angle, there is not need to decide these writ petitions on merit. They are accordingly dismissed as unnecessary. No costs.

Sd/-
Chief Justice

Brajesh